

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEONEL HERNANDEZ,
Plaintiff,
v.
J. WELCH,
Defendant.

Case No.: 1:23-cv-01563-JLT-SKO

**ORDER DISCHARGING ORDER FOR
WARDEN OF CALIFORNIA STATE
PRISON, LANCASTER TO SHOW CAUSE
WHY SANCTIONS SHOULD NOT BE
IMPOSED FOR FAILURE TO COMPLY
WITH A COURT ORDER**

(ECF No. 33)

**ORDER DIRECTING DEFENSE COUNSEL
TO RESCHEDULE THE SETTLEMENT
CONFERENCE**

Plaintiff Leonel Hernandez is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

I. BACKGROUND

This matter was scheduled for a settlement conference via Zoom videoconferencing before the undersigned on December 10, 2024, at 1:00 p.m.

On November 4, 2024, the Court issued its Order & Writ of Habeas Corpus Ad Testificandum, directing Plaintiff's custodian to produce him for a Zoom video conference on December 10, 2024, at 1:00 p.m. (*See* ECF No. 29.) The writ was served on the institution's litigation coordinator via email and regular mail on that same date.

1 On December 10, 2024, Plaintiff failed to appear at the settlement conference.
2 Accordingly, the Court issued its Order For Warden Of California State Prison, Lancaster To
3 Show Cause (“OSC”) Why Sanctions Should Not Be Imposed For Failure To Comply With A
4 Court Order on December 11, 2024. (ECF No. 33.) The warden was directed to respond within 14
5 days. (*Id.* at 2.)

6 On December 23, 2024, the warden filed a response to the OSC. (ECF No. 34.)

7 **II. DISCUSSION**

8 The warden’s response to the OSC (ECF No. 34) is supported by the Declaration of J.
9 Orellana, Litigation Coordinator at California State Prison, Lancaster (“CSP-LAC”). (ECF No.
10 34-1.) The warden advises that on December 10, 2024, Plaintiff was housed in restricted housing
11 facility DB5. (ECF No. 34 at 2; ECF No. 34-1, ¶ 3.) The facility has a limited number of officers
12 whose duties include escorting inmates to and from appointments and video conferences. (ECF
13 No. 34 at 2.) At about 12:30 p.m., four different officers in the facility responded to multiple
14 medical emergencies involving different inmates, including one claiming to experience suicidal
15 ideation. (ECF No. 34 at 2; ECF No. 34-1, ¶ 7.) Those emergencies took the officers away from
16 their regular duties, directly affecting the time it took to retrieve Plaintiff for his video conference.
17 (*Id.*) Further, the warden states a number of other factors compounded the delay, including the
18 manner of transportation given the high security level in facility DB5, the required search of the
19 inmate prior to transportation, and the slow movement by the inmate given shackling of his hands
20 and feet, coupled with the significant distance between the housing unit and the video conference
21 room. (ECF No. 34 at 2-3; *see also* ECF No. 34-1, ¶ 5.)¹ Plaintiff arrived at the video conference
22 room at around 1:30 p.m.; unfortunately, by the time the escorting officers set up the video
23 conference, the conference had already been concluded. (ECF No. 34 at 3; ECF No. 34-1, ¶ 9.)
24 CSP-LAC staff work expeditiously to process and execute court orders and to ensure inmates
25 arrive at appearances in a timely manner. (ECF No. 34-1, ¶ 10.) Unfortunately, due to unexpected
26 circumstances, staff were delayed on this occasion. (*Id.*) The warden states Plaintiff’s failure to

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28 ¹ Defense contacted Orellana on that date concerning Plaintiff’s delay. (Doc. 34-1, ¶ 8.) At that time, Orellana
acknowledged there had been a delay, but was not aware of the specific reason. (*Id.*)

1 timely appear did not involve willful disobedience and apologizes to the Court for the
2 inconvenience and expense caused. (ECF No. 34 at 4.)

3 **III. CONCLUSION AND ORDER**

4 Based upon the foregoing, the Court **HEREBY ORDERS:**

- 5 1. The OSC issued December 11, 2024 (ECF No. 33) is **DISCHARGED**; and
6 2. Defense counsel is **DIRECTED** to contact Sujean Park, **no later than January 8,**
7 **2025**, to reschedule the settlement conference in this matter.

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9 IT IS SO ORDERED.

10 Dated: **December 30, 2024**

11 /s/ Eric P. Gray
12 UNITED STATES MAGISTRATE JUDGE
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